

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

PETITIONER

v.

CIVIL ACTION NO. 3:10-cv-670DPJ-FKB

GARY WADE PARKER

RESPONDENT

REPORT AND RECOMMENDATION

This matter is before the Court on the Petition to Enforce Internal Revenue Service Summons filed on November 19, 2010, [Docket #1] by the United States of America on behalf of its agency, Internal Revenue Service (IRS), pursuant to the provisions of I.R.C. §§ 7602 and 7604(a). In this petition, the IRS is seeking compliance with its Summons served upon the Respondent on January 26, 2010. On November 19, 2010, the Court entered an Order to Show Cause [Docket #2] which required the Respondent to appear before the Court at the United States Courthouse in Jackson, Mississippi, on January 13, 2011, at 1:30 p.m. to show cause why he should not be compelled to comply with the IRS Summons. The Order to Show Cause and a copy of the Petition and Exhibits were served on the Respondent on December 7, 2010.

On January 13, 2011, a hearing was held on the Order to Show Cause. Present at the hearing were Felicia C. Adams, Assistant United States Attorney, counsel for the Petitioner, and William D. Stone, Revenue Officer, Internal Revenue Service. The Respondent Gary Wade Parker appeared at the hearing and confessed the matters raised in the petition.

Based upon the evidence presented at the hearing, the Court found that the Summons meets the standards required by *United States v. Powell*, 379 U.S. 48, 57-58 (1964): The

investigation is being conducted pursuant to a legitimate purpose; the inquiry is relevant to the purpose; the information sought is not already within the Commissioner's possession; and the administrative steps required by the Code have been followed.

The undersigned hereby recommends that the Respondent, Gary Wade Parker, be compelled to comply with the IRS Summons which was served on him on January 26, 2010, and further recommends that the Respondent be directed to appear before William D. Stone, Revenue Officer, Internal Revenue Service, on or before 1:00 p.m., on February 14, 2011 at 2209 Fifth Street North, Columbus, Mississippi 39706-2211, for the purpose of complying with the IRS Summons. A copy of the IRS Summons is attached hereto as Exhibit A.

The undersigned further recommends that in the event that the Respondent fails to comply with the Court's Order and upon notice to the Court by the Petitioner of the Respondent's failure to comply, a bench warrant be issued by the Court; and the undersigned further recommends that a copy of the Court's Order and the attached Exhibit A be personally served on the Respondent by an official of the IRS within five (5) days of the date of issuance of the Order, and the IRS and/or the United States Attorney within twenty-four (24) hours from the date of the issuance of the Order cause a copy of the Order to be sent by certified mail to the Respondent.

Parties are hereby notified that failure to file written objections to the proposed findings, conclusions and recommendations within fourteen (14) days after being served with a copy of the Report and Recommendation shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted

by the district court. *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415 (5th Cir. 1996)(en banc); Fed. R. Civ. P. 72.

RESPECTFULLY SUBMITTED, this the 19th day of January, 2011.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE